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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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06/28/2001

Steven G. Smith

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06/27/2006

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EXAMINER

CHANKONG, DOHM

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/892,736

Applicant(s)

SMITH ET AL.

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-23 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-23 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/26/06</u> . | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

1> This action is in response to Applicant's request for continued examination. Claims 1-3, 5-23 & 26-28 are presented for further examination.

2> This is a non-final rejection.

#### *Continued Examination Under 37 CFR 1.114*

3> A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3.3.2006 has been entered.

#### *Response to Arguments*

4> Applicant's arguments have been fully considered but they are not persuasive as Applicant's amendment does not overcome the prior art references. The amendment suffers from §112 issues which are discussed below. The amendment also does not precisely reflect Applicant's arguments.

Applicant argues that the prior art references disclose a middleware component that converts legacy data to web based data such that the server suite provides web content. However, the reference in question (Profit, Jr.) disclosed that legacy data was merely formatted into web content which can be viewed by a web browser [column 6 «lines 47-49»].

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Thus, Profit's legacy data is maintained as legacy data (not web-based), the legacy data is merely formatted so that it can be viewed using a standard browser, instead of specialized legacy software.

Applicant's argument presumes that legacy data is classified as "non web-based data". However, the Office asserts that legacy data may be classified as "web-based" if the legacy data is, in fact, accessed over the web or presented within a user's network browser. Since applicant does not define what is meant by "non web-based data" in the specification, the Office may give the limitation its broadest reasonable interpretation. Legacy data and web-based data are not necessarily distinct forms of data. The term "web-based" is very broad and any data that is transmitted over the web or that can be accessed over the web may be considered web-based. It seems reasonable to suggest that any data that is transmitted over a network connection or accessed through a web page may be considered "web-based data".

Thus, Profit discloses the new amendment, wherein at least one data at the intranet and the data at the legacy system is non web based both at the respective intranet or legacy system [column 6 «lines 24-31»], and when being communicated to the user [column 6 «lines 44-56»]. The prior art rejections set forth in the previous Office action are therefore maintained.

#### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5> Claims 1-16 and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The new claim amendment is directed towards describing that at least one of the data at the intranet and the data at the legacy system is non web-based. The new amendment references "non web-based" data. Since the limitation merely discloses that the data is not, the Office considers such a limitation a negative limitation. While there is nothing inherently ambiguous or uncertain about a negative limitation, any negative limitation must have basis in the disclosure. See MPEP §2173.05(i).

Applicant points to several paragraphs in the specification to support the new claim amendments. Nowhere in the cited paragraphs or the entire specification is there any disclosure as to the type of data that is stored at the intranet or legacy system or the type of data that is communicated to the user, other than the data is legacy data. Applicant seems to imply that legacy data is non web-based data. The Office disagrees with this implication for the reasons discussed above.

Beyond describing the data as legacy data, the specification is silent as to whether the data stored at the intranet or legacy system is web-based or non web-based. In fact, Applicant's specification discloses that a technician utilizes a web-page to access the stored data [0038]. The specification does give specific examples of the legacy data that may be accessed, such as district-specific information for telephone companies[0041, 0048], but this

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disclosure in no way supports the subject matter of "non web-based data". And since this data is accessed through a browser and a web page, it seems reasonable that the data can be interpreted as being "web-based".

Additionally, even if legacy data is known as non web-based data, the limitation is too broad because it encompasses all non web-based data. Applicant's specification merely discloses accessing legacy data at the intranet and/or legacy system.

The negative limitation set forth in the amendment is not supported by the disclosure and therefore is rejected under 35 U.S.C § 112, first paragraph.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1> Claims 1-16 and 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. A negative limitation renders a claim indefinite when the limitation is an attempt to claim the invention by excluding what the inventors did not invent rather than distinctly and particularly pointing out what they did invent. MPEP §2173.05(i) (citing In re Schechter, 205 F.2d 185, 98 USPQ 144 (CCPA 1953)). In Schechter, the limitation "R is an alkenyl radical other than 2-butenyl and 2,4-pentadienyl" was found to have rendered the claim indefinite because the limitation merely attempts to exclude.

Here, Applicant's limitation that the data is any data other than web-based

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data suffers from the same flaw because it merely excludes what the inventors did not invent. Thus, the negative limitation renders the claim indefinite.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7> Claims 1, 6, 11 and 13 are rejected under 35 U.S.C § 103(a) as being unpatentable over Willis, Jr. et al, U.S Patent No. 6.738.815 ["Willis"], in view of Profit, Jr. et al, U.S Patent No. 6.636.831 ["Profit"].

8> Claims 2, 3, 7, 14, 15-17 and 19 are rejected under 35 U.S.C § 103(a) as being unpatentable over Willis and Profit, in view of Stone et al, U.S Patent No. 6.101.510 ["Stone"].

9> Claim 5 is rejected under 35 U.S.C § 103 (a) as being unpatentable over Willis, in view of Butts et al, U.S Patent No. 6.233.541 ["Butts"].

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10> Claims 8, 9, 12 are rejected under 35 U.S.C § 103(a) as being unpatentable over Willis, in view of Devine.

11> Claims 18 and 20-22 are rejected under 35 U.S.C § 103(a) as being unpatentable over Willis and Stone, in further view of Devine et al, U.S Patent No. 6,598,167 ["Devine"].

12> Claims 23 and 26-27 are rejected under 35 U.S.C § 103(a) as being unpatentable over Profit in view of Stone, in further view of Fortier, Jr. et al, U.S Patent Publication No. 2003|0023601 ["Fortier"].

13> Claim 26 is rejected under 35 U.S.C § 103(a) as being unpatentable over Profit and Stone, in view of Devine.

14> Claim 28 is rejected under 35 U.S.C § 103(a) as being unpatentable over Devine, Profit and Stone, in further view of Fortier.

15> Claims 1, 6, 11 and 13 are rejected under 35 U.S.C § 103(a) as being unpatentable over Willis, Jr. et al, U.S Patent No. 6,738,815 ["Willis"], in view of Breneman et al, U.S Patent No. 5,974,135 ["Breneman"].

16> As to claim 1, Willis discloses a system for permitting a user to access data on a legacy system and an intranet [abstract], comprising:



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a systems interface coupled to the legacy system, wherein the systems interface comprises at least one network address that can be accessed by a computer over a communication network, and further comprises a protocol server for managing protocol regarding the computer interfacing with a transaction server in direct communication with the legacy system [Figure 3 «items 24, 26, 28, 30» | column 3 «lines 25-33» | column 5 «lines 30-36» where : Willis' TechNet server is analogous to a transaction server],

wherein while the computer is initially and persistently logged onto the system interface, the systems interface is adapted to direct communications from the computer from the at least one network address to a separate network address corresponding to the intranet that is distinct from the legacy system [Figure 3 | column 8 «lines 51-67» | column 9 «lines 30-55» | column 10 «line 63» to column 11 «line 12» | column 11 «lines 60-67» | claims 3 and 7].

Willis does not expressly disclose that the protocol server bypasses the transaction server by directing communications from the computer directly to the intranet.

17> In the same field of invention, Breneman is directed towards a system for providing a single interface for concurrently accessing disparate systems, such as an intranet or legacy systems (such as corporate databases) [column 1 «lines 11-15 and 45-65» | column 2 «lines 49-55»]. Breneman discloses a workstation enabled to concurrently communicate with separate legacy systems and an intranet [column 1 «lines 45-61» | column 2 «lines 49-55»].

Breneman further discloses both a first server for managing protocol and a second server, whereby the first server bypasses the second server by directing communications from the computer directly to an intranet [Figures 2 and 3 | column 5 «lines 60-66» where :

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intranet access is provided by the hypermedia server (Figure 3 «item 304») and access to the legacy systems is provided by the terminal emulation module (Figure 3 «item 307» | column 1 «lines 52-55»)]. Therefore, when the client needs to access documents from an intranet source and not the legacy system, Breneman's clients are directed towards a hypermedia server which is connected to an intranet. There is no need to go through the terminal emulation server. It would have been obvious to one of ordinary skill in the art to incorporate Breneman's functionality into Willis' mobile access system to enable users to access data from separate intranet and legacy systems.

18> As to claims 6, 11 and 13, see claim rejections (Willis, in view of Profit) above.

### *Conclusion*

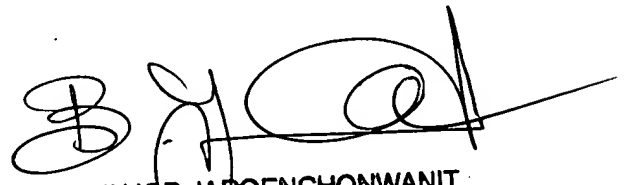
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC



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